

### REMARKS

By the present amendment, the specification has been amended in paragraphs 21, 24, 29 and 30 principally for clarifying the disclosure and to correct some clerical errors. The amendments made to paragraph 24 describe what is shown in the drawings and clarify the written description of the invention in this respect. Annotated and replacement pages for drawing FIGS. 1-3, 5 and 6 are enclosed to overcome the Examiner's objections to the drawings. The claims have also been amended to overcome the objections raised by the Examiner and the rejections under 35 U.S.C. § 112 as well as to put the claims in better form for examination. Allowed claims 10 and 13 have been substantially rewritten in independent form as new claims 19 and 20. In addition, new claim 21 has been added to give Applicants more complete protection for their invention. No new matter has been added to the specification or the claims with these amendments.

The Examiner has requested Applicants to update the status of the copending applications in Paragraph 1. The Examiner is advised that the status of the copending applications had been updated as shown in the Related U.S. Application Data in the pregrant publication for this application. Applicants thank the Examiner for her thorough review of the application.

### CLAIM REJECTIONS-35 U.S.C. § 112

In the Office Action, claims 1-18 have been rejected under 35 U.S.C. § 112, first paragraph, because the examiner believes that the specification "does not reasonably provide enablement for an elongated structural support rigidly mounted at a lower portion to the module platform and forming a handle grip and an upper portion in addition to a handle assembly." This rejection is respectfully traversed.

It is believed that the claims as presented, and as amended, fully comply with the enablement requirement under 35 U.S.C. § 112. It is believed that the Examiner was confused by the claim format because the electronic filing of the application did not replicate the indented paragraphs format of the claims. As the Examiner will see from the amended claims submitted herewith, the upright handle assembly includes an elongated structural support, pivotally

mounted at a lower portion to the foot assembly, a portable cleaning module which in turn includes a module housing, a dirt separator, a suction conduit, and a motor driven fan supported in the module housing. The module platform limitation has been eliminated from claim 1 but appears in dependent claims 16 and in new independent claim 21. The module platform is mounted to the elongated structural supports and includes an opening for detachably mounting of the flexible suction hose. The module platform is item 24 illustrated in Figs. 1-3, 5 and 6. The Examiner's attention is further directed to paragraph 21 in the specification which recites in relevant part as follows:

... The module platform 24 is rigidly attached to the lower ends of the support tubes 20 in a generally perpendicular fashion. Wheel axle bearings (not shown) extend through the first end of the support tube in a horizontal direction. The upright handle assembly 12 including the module platform 24 rotates about the wheel axle bearings. ...

It is thus believed that claims 1-18 are fully supported in the specification as filed.

Claims 2-18 have been rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. This rejection is respectfully traversed. The several items cited by the Examiner in this rejection, have been attended to by the amendment of these claims.

### **CLAIM REJECTIONS-35 U.S.C. § 103**

Claims 1, 11-12 and 14-18 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Weaver U.S. Patent No. 5,524,321 in view of Scalfani et al. U.S. Patent No. 6,146,434. This rejection is respectfully traversed. Applicants agree with the Examiner's description of the Weaver et al. '321 patent but disagree with the Examiner's characterization of the Scalfani et al. '434 reference in that the inlet 80 does not introduce dirt-laden air tangentially into the Scalfani et al. '434 cyclone separation chamber. Rather, the dirt-laden air is introduced into the cyclone separation chamber *perpendicular* to the axis of the separation chamber and is then directed into a circular direction by the baffle 120. See, for example, Scalfani et al. '434, col. 1, lines 51-55; and col. 4, lines 43-58.

The alleged combination of Weaver et al. '321 and Scalfani et al. '434 is traversed. There is no basis for making the alleged combination. There is no suggestion in either of the Weaver et al. '321 patent or the Scalfani et al. '434 patent for making the alleged substitution. There is no teaching in the references as to how one would replace the Weaver et al. '321 dirt separator with the cyclonic dirt cup assembly disclosed in Scalfani et al. '434. Therefore, it is submitted that the alleged combination of Weaver et al. '321 in view of Scalfani et al. '434 is inappropriate.

However, even if the alleged combination of Thur et al. '072 with Weaver et al. '321 and Scalfani et al. '434 could be made, however untenably, it still would not reach Applicants' claimed invention. The alleged combination would not have a cyclone separation chamber into which dirt-laden air is introduced tangentially through an inlet as required by claim 1 and the claims dependent therefrom. . Thus, claims 1, 11, 12, and 14-18 are not met by the alleged combination of Weaver et al. '321 and Scalfani et al. '434.

In addition to distinguishing over the alleged combination of Weaver et al. '321 and Scalfani et al. '434 in the same manner as claim 1, claim 14 distinguishes further over the alleged combination of these references in that it calls for a dirt cup removably mounted to the module housing beneath the cyclone separation chamber to collect dirt separated from the air therein. There is no removable dirt cup mounted beneath the cyclone separation cup in the Scalfani et al. '434 reference.

In view of the foregoing, it is submitted that claims 1, 11, 12, and 14-18 are not unpatentable over the alleged combination of Weaver et al. '321 and Scalfani et al. '434.

Claims 2 and 3 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Weaver et al. '321 in view of Scalfani et al. '434 is applied to claim 1 and further in view of the Thur et al. 6,536,072. This rejection is respectfully traversed.

Thur et al. '072 discloses a vacuum cleaner having an upright handle that includes a frame formed by a pair of upright members that are U-shaped in cross section and that extend upwardly from a base to a handle grip.

The alleged combination of Weaver '321 and Scalfani et al. '434 is discussed above and is believed equally applicable here. The alleged combination of Thur et al. '072 with Weaver et al.

'321 and Scalfani et al. '434 is equally inappropriate. There is no suggestion in any of the references as to how the Thur et al. '072 frame yoke could be incorporated into the Weaver et al. '321 reference. The yoke structure of Thur et al. ;'072 is entirely different than the structure of either Weaver et al. '321 or Scalfani et al. '434. Absent any suggestion, it is submitted that the alleged combination of Weaver et al. '321, Scalfani et al. '434, and Thur et al. '072 cannot be made.

Even if the alleged combination of Thur et al. '072 with Weaver et al. '321 and Scalfani et al. '434 could be made, however untenably, it would still not meet the invention of claims 2 and 3. These claims depend from claim 1 and distinguish over the alleged combination of Thur et al. '072 with Weaver et al. '321 and Scalfani et al. '434 in the same manner as claim 1 distinguishes over the alleged combination of Weaver et al. '321 and Scalfani et al. '434. Thur et al. '072 does not teach the deficiency of the alleged combination of Weaver et al. '321 and Scalfani et al. '434. It is therefore submitted that claims 2 and 3 are not unpatentable over the alleged combination of Thur et al. '072 with Weaver et al. '321 and Scalfani et al. '434.

It is noted with appreciation that claims 4-10 and 13 would be allowable if rewritten to overcome the rejections under 35 U.S.C. § 112 second paragraph and to include all limitations of the base claim and any intervening claims. By the present amendment, claims 10 and 13 have been rewritten in independent form without the limitation of the module platform in original claim 1 and with other editorial changes for purposes of clarity as new claims 19 and 20, respectively. It is submitted that these claims are allowable.

Serial No. 10604,401  
Filed: 07/17/03  
Page 17 of 17

Examiner: Theresa T. Snider  
Group Art Unit: 1744

In view of the foregoing remarks and amendments, it is submitted that all of the claims are in condition for allowance. Early notification of allowability is respectfully requested.

Respectfully submitted,

DAVID E. MCDOWELL ET AL.

Dated: May 25, 2006

By: /John E McGarry/  
John E. McGarry, Reg. No. 22,360  
MCGARRY BAIR PC  
171 Monroe Avenue, NW, Suite 600  
Grand Rapids, Michigan 49503  
616-742-3500

G0228897